

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

DAMONT ANDRE' WILLIAMS

PLAINTIFF

v.

Civil No. 4:17-cv-04093

OFFICER SHUMAKER, Miller County
Detention Center, (MCDC); CORPORAL
GRIFFIE, MCDC; OFFICER NALLS, MCDC;
and MICHAEL CAGLE

DEFENDANTS

ORDER

Before the Court is a Motion to Dismiss filed by Defendants James Shoumaker, Byron Griffie, Bradley Nall, and Michael Cagle. (ECF No. 53). Plaintiff has not responded. The Court finds the matter ripe for consideration.

On October 23, 2017, Plaintiff filed this 42 U.S.C. § 1983 action *pro se*. (ECF No. 1). Plaintiff filed a Supplement to his Complaint on November 21, 2017. (ECF No. 16). On or about December 13, 2017, Defendants sent discovery requests to Plaintiff that included a request for an executed medical authorization. Plaintiff provided partial responses to Defendants' discovery requests but refused to answer certain interrogatories and refused to produce a medical authorization. After attempting to resolve the discovery dispute with Plaintiff without court intervention, Defendants filed a Motion for order Compelling Answers to Discovery Requests. (ECF No. 40). Plaintiff did not respond.

On February 16, 2018, the Court granted Defendants' motion to compel and directed Plaintiff to provide Defendants with a signed medical authorization and answers to the interrogatories by March 2, 2018. Plaintiff was advised in the order that failure to produce the discovery responses by the Court's deadline could result in the dismissal of this case. (ECF No.

50, p. 2). To date, Plaintiff has not provided Defendants with any discovery responses or a signed medical authorization as ordered by the Court.

On March 12, 2018, Defendants filed the instant Motion to Dismiss based on Plaintiff's failure to obey the Court's order to produce discovery responses. (ECF No. 53). On March 13, 2018, the Court entered an order directing Plaintiff to file a response to Defendants' motion on or before April 3, 2018. (ECF No. 56). Plaintiff was advised in the order that failure to respond within the required period of time would result in the dismissal of his case. To date, Plaintiff has not responded to the Motion to Dismiss.

Although *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984). Local Rule 5.5(c)(2) states in pertinent part:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently . . . If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

Local Rule 5.5(c)(2).

Additionally, the Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the grounds that the plaintiff failed to prosecute or failed to comply with orders of the court. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (stating the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on "the plaintiff's failure to comply with any court order." *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (emphasis added).

In the present case, Plaintiff has failed to comply with two orders of the Court. Therefore, pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 5.5(c)(2), Defendants' Motion to Dismiss (ECF No. 53) is **GRANTED**. Accordingly, Plaintiff's Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 11th day of April, 2018.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge